



New Mexico Environment Department

PROTECTING OUR ENVIRONMENT, PRESERVING THE ENCHANTMENT

Fact Sheet 2007

Environmental Protection Division, Air Quality Bureau

Greenhouse Gas Mandatory Reporting Programs: The basis of the New Mexico Environmental Improvement Board (EIB) and Local Board's authority to establish greenhouse gas mandatory reporting programs is as follows:

- **Greenhouse gases fall under the definition of 'air contaminant'.** "Air contaminant" is defined under the New Mexico Air Quality Control Act ("Act"), as "a substance, including any particulate matter, fly ash, dust, fumes gas, mist, smoke, vapor, micro-organisms, radioactive material, any combination thereof or any decay or reaction product thereof." NMSA 1978, § 74-2-2(A). Greenhouse gases, including carbon dioxide, come within the broad definition of "air contaminant" in state statute.
- **The EIB and local board have authority to regulate air contaminants.** These boards have been given general authority under the Act, to promulgate regulations to "prevent or abate air pollution . . . within the geographic area of the [Board's] jurisdiction." NMSA 1978, § 74-2-5(B)(1).
- **The EIB and local board have specific authority to require the reporting of air contaminants.** Under NMSA 1978, §74-2-5(C) (5) of the Act, these boards have specific authority to "require any person emitting any air contaminant to: ... (c) Establish and maintain records of the nature and amount of emissions; (d) Submit reports regarding the nature and amounts of emissions and the performance of emission control devices; and (e) Provide any other reasonable information relating to the emission of air contaminants."
- **The EIB and local board also have general authority to require the reporting of air contaminants.** Reporting and registry programs can be used not only to track the nature and amount of greenhouse gas emissions, but can also be used to develop strategies and policies to reduce such emissions. The boards' general authority to prevent and abate air pollution authorizes the boards to establish greenhouse gas reporting requirements and a registry in order to allow the State to begin to develop strategies to prevent and abate the air pollution caused by greenhouse gases.

Voluntary Greenhouse Gas Registry Programs: The basis of the New Mexico Environmental Improvement Board, Local Board, and Environment Department's authority to establish voluntary greenhouse gas registry programs is as follows:

- **Statutory restrictions apply only to regulatory requirements.** Given that the greenhouse gas registry program would be voluntary on the part of participants, there are no statutory restrictions to the EIB or local boards' authority to develop such a program. For statutory powers, see above.
- **The Air Quality Control Act encourages voluntary programs.** The Environment Department and local agency are ordered, under NMSA 1978, § 74-2-5.1 to "...C. encourage and make every reasonable effort to obtain voluntary cooperation by the owner or occupants to preserve, restore or improve air purity; [and]... G. classify and record air contaminant sources that, in its judgment, may cause or contribute to air pollution..."
- **The Environment Department has the authority to enter into compacts.** In the likely event that a voluntary greenhouse gas registry program would involve state participation with a multi-state initiative, the Environment Department has authority under NMSA 1978, §74-2-5.2.C to "enter into agreements and compacts with adjoining states and Indian tribes, where appropriate."